

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6637

BILL NUMBER: SB 568

NOTE PREPARED: Jan 26, 2011

BILL AMENDED:

SUBJECT: Drug Testing of Public Assistance Recipients.

FIRST AUTHOR: Sen. Kruse

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Division of Family Resources (DFR) to develop a program to test individuals applying for or receiving assistance under the federal Temporary Assistance for Needy Families (TANF) program and the federal Supplemental Nutrition Assistance Program (SNAP) when a county office believes, based on reasonable suspicion, that the individuals are engaged in the illegal use of controlled substances. The bill provides that an individual who tests positive for a controlled substance without a prescription is ineligible to receive TANF and SNAP assistance. The bill also provides that an individual who is ineligible to receive assistance may reapply for assistance under the TANF program and SNAP on the earlier of: (1) six months after the date the individual tested positive for a controlled substance; or (2) the date the individual complies with and completes a drug abuse treatment program.

The bill provides that an individual who is ineligible for TANF assistance and SNAP assistance as the result of testing positive for the presence of illegal drugs is ineligible for assistance under the Medicaid program. It requires the Office of Medicaid Policy and Planning (OMPP) to apply for an amendment to the state Medicaid plan to limit Medicaid eligibility for individuals who are ineligible under the TANF program and SNAP as the result of testing positive for the presence of illegal drugs.

Effective Date: Upon passage; July 1, 2011.

Summary of NET State Impact: This bill is expected to have a net fiscal impact of increasing state expenditures between approximately \$131,000 and \$161,000 annually. This estimate is based on the cost of providing drug tests and the reduction in public benefit expenditures.

Explanation of State Expenditures: *Summary:* When a county office believes, based on reasonable

suspicion, that an applicant or recipient of TANF or SNAP are engaged in the illegal use of a controlled substance, DFR may test the individual. The total drug testing costs are expected to be \$862,000 per year. This is based on an assumption that 5% of the TANF and SNAP recipient population might be selected for testing (resulting in a testing cost estimated to be \$513,000) and that 5% of the TANF and SNAP applicant population might also be selected for testing (resulting in a testing cost of \$347,000). These are for drug-testing costs only and do not include administrative costs.

The total reduction in state expenditures for benefits is estimated to be between \$701,000 and \$731,000 per year. This is based on an estimated reduction in state expenditures for TANF of \$57,000 to \$87,000 and a potential reduction in state expenditures for Medicaid estimated to be \$645,000, assuming federal approval.

The bill also requires that the Office of Medicaid Policy and Planning (OMPP) petition the U.S. Department of Health and Human Services (DHHS) for approval to amend the State Medicaid Plan to limit the eligibility of those that test positive for illegal drugs. Requiring the Office to submit a petition to DHHS would increase the workload of the staff.

Additionally, as the bill specifies that individuals who test positive for controlled substances are ineligible for Medicaid, expenses of the Division of Mental Health and Addiction may increase to provide treatment services to individuals who (1) elect to participate in treatment services and (2) cannot afford to pay for addiction treatment services provided by private providers and not-for-profit providers.

Background Information:

Note: A report from the Ford School at the University of Michigan (Pollack, Danziger, Jayakody, and Seefeldt), titled Drug Testing Welfare Recipients - False Positive, False Negatives, Unanticipated Opportunities, was used to calculate the number of individuals who would test positive on drug tests.

Drug Testing Requirement: Under the SNAP program, the Family and Social Services Agency (FSSA) reports drug testing of applicants and recipients is not allowable under federal law. Additionally, there are currently no TANF funds available for drug testing costs. Consequently, FSSA reports the state would be responsible for 100% of the costs of drug testing.

Under the bill, the following individuals would be required to undergo a drug testing program if a county office believes (based on reasonable suspicion) that the individuals are engaged in the illegal use of controlled substances: (1) TANF applicants and recipients who are at least 18 years of age and (2) SNAP applicants and recipients who are at least 18 years of age.

The bill requires samples from individuals who test positive for a controlled substance to be submitted to a second test to rule out a false positive. Individuals who, after the two drug tests and an administrative hearing, are determined to have illegally used a controlled substance are considered ineligible for benefits.

The costs of the drug testing will vary depending on how many individuals are selected for testing and how many test positive for illegal drugs that would require a verification test to confirm an initial positive. The cost of the drug tests will also vary depending on how many panels the tests possess. If a test contains more panels, then the drug test checks for the presence of more drugs (and therefore is more expensive).

Total drug testing costs will depend on the number of applicants for benefits as well as the number of benefit

recipients who are tested. For FY 2010, FSSA reports there were a total of 753,500 applications for TANF, SNAP, and Medicaid benefits. This number excludes applications for only Medicaid. Additionally, there were 1,108,864 unique recipients of the following benefits: TANF-only benefits, SNAP-only benefits, TANF and SNAP benefits, SNAP and Medicaid benefits, TANF and Medicaid benefits, or TANF, SNAP, and Medicaid benefits. A total of 1,862,364 individuals per year (*applicants and recipients* for TANF or SNAP benefits) would be subject to drug testing under the bill.

The Indiana Department of Correction reports that a 5-panel drug test costs \$6.50 per test and a gas chromatograph and mass spectrometer (GC-MS) confirmation test (to verify initial drug tests) costs \$17 per test. If DFR is able to contract out the drug-testing requirements, this will have less of an effect on staff workload.

Assuming 5% of the applicant and recipient population (1,862,364) is selected for drug testing, the costs for the initial drug tests are estimated to be \$605,000 and the costs for the verification drug tests are expected to be \$257,000. The total cost for drug tests for applicants is expected to be \$862,000 per year with an estimated 2,440 recipients and 1,653 applicants being ruled ineligible for benefits annually. This estimate does not account for the actual number of applicants who would be found eligible for benefits in the absence of a drug testing program.

Cost Savings from Benefit Applicants:

An estimated 1,653 applicants for TANF and SNAP benefits are expected to test positive on both their initial and verification drug test, thereby disqualifying them from receiving benefits. It is unknown how many of these disqualified applicants would have been determined eligible for benefits in the absence of a drug testing program. Any cost savings the state may experience from applicants who test positive on their drug tests are indeterminable. Additionally, cost savings may be reduced to the extent any cost savings from benefit disqualifications are reallocated to other programs.

Cost Savings from Current Benefit Recipients:

[The estimates contained in this analysis all assume individuals who test positive for controlled substances will be ineligible for benefits for the duration of six months.]

TANF and SNAP: For FY 2010, FSSA reports there were 1,108,864 unique recipients of the following benefits: TANF-only benefits, SNAP-only benefits, TANF and SNAP benefits, SNAP and Medicaid benefits, TANF and Medicaid benefits, or TANF, SNAP, and Medicaid benefits.

Removing individuals who receive SNAP benefits is not expected to decrease state expenditures for benefits as SNAP benefits are 100% administered by the federal government.

If 5% of the total 1,108,864 recipients are subjected to drug testing, 55,443 would receive a drug test. An estimated 8,982 would test positive on the first drug test and would require a verification drug test. An estimated 2,440 would test positive on both the initial and verification drug tests and ineligible for TANF, SNAP, and Medicaid benefits.

Of the 2,440 individuals expected to test positive on both tests, an estimated 488 will be TANF recipients.

There could be a reduction in state expenditures for TANF benefits assuming a 6-month removal from benefit payments and no substitution into the program. The amount of cash assistance associated with one member of the TANF assistance unit can be \$58.50 or \$90 monthly, depending on family size. (Dependent children would not necessarily lose benefits - only the adult's benefit would be affected.) Additionally, it is not known how many families have adults that have exceeded the maximum benefit time period in the TANF program and dependants are the only beneficiaries in the house. The reduction in the state payment for TANF benefits is estimated to be between \$56,500 and \$87,000. Any reduction in benefits paid to individuals that test positive for drugs and are removed from eligibility can be diverted to eligible individuals in other programs.

The effect this bill will have on state expenditures for TANF and Medicaid (related to drug offenses) ultimately depends on (1) the number of individuals tested and who test positive for drugs under both drug tests, (2) if these resources will be reallocated to other programs, (3) the costs of the drug tests selected by administering agencies, and (4) benefit amounts administered by the programs (TANF benefits increase are based on family size).

Medicaid: FSSA reports the average monthly enrollment in the Medicaid program for FY 2010 was 1,200,504, of which 409,736 adults receiving Medicaid benefits are also estimated to receive either TANF benefits, SNAP benefits, or both. Of the 2,440 TANF and SNAP benefit recipients who are expected to test positive on both tests, an estimated 901 will also be Medicaid recipients. The per recipient, per month spending in the Medicaid program for FY 2010 was \$361. Assuming 6 months of ineligibility as well as the federal reimbursement rate in the Medicaid program, this bill is expected to decrease state Medicaid expenditures by \$645,000 per year. This assumes federal approval of the program.

Additional Analysis:

Individuals who are found ineligible for benefits as the result of a positive initial and verification drug test are ineligible for the earlier of either 6 months after testing positive for a controlled substance or the date an individual complies with and completes a drug abuse treatment program. As these individuals would be considered ineligible for Medicaid, individuals who enter a drug abuse treatment program would likely either (1) pay for treatment out-of-pocket, (2) seek treatment from a not-for-profit agency, or (3) seek treatment through programs financed by the Division of Mental Health and Addiction. Actual increases in expenditures are indeterminable.

Explanation of State Revenues:

Background on Programs- TANF Program: TANF assistance is shared between state and federal governments. However, the federal share is provided through a capped block grant allocation with a state maintenance-of-effort (MOE) requirement. TANF block grant allocations are determined on a formula basis with increased flexibility for their use by the states over what was permitted under the prior Aid to Families with Dependent Children (AFDC) Program. The state contributes roughly 1/3 of the benefits in the TANF program.

Medicaid Program: Medicaid is an entitlement program offered jointly by the federal and state government. Individuals that meet the established criteria are entitled to benefits in the program. A reduction in the number of individuals eligible for Medicaid under this bill may have the potential to decrease matching funds from the federal government or free resources for new individuals to be served in the state Medicaid program.

SNAP Program: The SNAP program was formerly known as the food stamp program. The federal government funds 100% of all food stamp benefits and 50% of the administrative costs to administer the SNAP program. The remaining 50% of administrative costs are provided by the state. A reduction in those eligible for the SNAP program may not necessarily mean a reduction in the funds provided by the federal government.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: OMPP; DFR; DMHA.

Local Agencies Affected:

Information Sources: Ford School at the University of Michigan (Pollack, Danziger, Jayakody, and Seefeldt), *Drug Testing Welfare Recipients - False Positive, False Negatives, Unanticipated Opportunities*, 2001; *Issues Relating to the Organizational Structure of the Office of the Secretary of Family and Social Services*; *FSSA Comparative Review of Selected Programs*; Jason Dudrich, FSSA; *1997 National Household Survey of Drug Abuse*; Rich Adams, FSSA; David Webster, FSSA; Susie Howard, FSSA; Elizabeth Johnson, Department of Corrections; Gina Eckart, DMHA.

Fiscal Analyst: Bill Brumbach, 232-9559.